



February 7, 2001

Ms. Ellen M. House  
Cotton, Bledsoe, Tighe & Dawson  
P.O. Box 2776  
Midland, Texas 78702-2776

OR2001-0475

Dear Ms. House:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143955.

The Midland Independent School District (the "district") received a written request for the personnel file of a district employee. You state that the district has released "a number of documents" responsive to the request. You inform us, however, that the district possesses a copy of an investigation report from Child Protective Services regarding allegations of child abuse against the employee. You first contend that the investigation report is not responsive to the request because the report is not contained in the employee's personnel file. It has long been established by this office that any information relating to an employee's employment and its terms constitutes information relevant to the employment relationship, and is therefore part of the personnel file. Open Records Decision Nos. 327 (1982), 55 (1974), 31 (1974). Accordingly, the investigation report at issue is responsive to the records request and must be released to the requestor unless it is otherwise excepted from required public disclosure.

You contend the report at issue is excepted from public disclosure under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." As noted above, the investigation report at issue directly relates to a Child Protective Services investigation of alleged child abuse. Section 261.201(a) of the Family Code provides as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

*See also* Fam. Code § 261.406(b) (making section 261.201 applicable to summary reports of CPS investigations supplied to school principal). The investigation report clearly comes within the ambit of section 261.201, and none of that section's release provisions apply in this instance. Accordingly, the district must withhold the report in its entirety pursuant to section 552.101 of the Government Code.<sup>1</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

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<sup>1</sup>Because we resolve your request under section 552.101, we do not address your arguments for redacting portions of the information contained in the report.

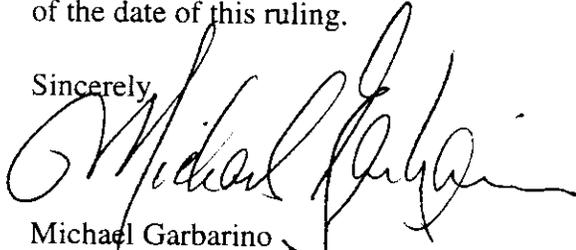
of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/RWP/seg

Ref: ID# 143955

Encl. Submitted documents

cc: Mr. Larry Griffin  
Odessa American  
P.O. Box 2952  
Odessa, Texas 79762-2952  
(w/o enclosures)